

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Industrial Tower and Wireless, LLC)	File No. EB-FIELDWR-12-00003508
Antenna Structure Registrant)	
ASR # 1262756)	NOV No. V201232800049
Pine Bluff, WY 82082)	
)	

NOTICE OF VIOLATION

Released: August 22, 2012

By the District Director, Denver Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's Rules,¹ to Industrial Tower and Wireless, LLC (ITWL), registrant of antenna structure # 1262756 in Pine Bluff, Wyoming. Pursuant to Section 1.89(a) of the Commission's Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On July 26, 2012, an agent of the Enforcement Bureau's Denver District Office inspected antenna structure # 1262756 located at 825 Sanders Drive, Pine Bluff, WY, and observed the following violation:

- a. 47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of "no hazard," as referenced in the FAA Advisory Circulars..." The Antenna Structure Registration for antenna structure # 1262756 currently requires red obstruction lighting at the top and at the mid-level height in accordance with FAA Circular Number 70/7460-1K, Chapters 4, 8, and 12. At the time of the inspection, the agent observed that the antenna structure did not have any lights installed at the mid-level height.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, ITWL must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission's Rules, we direct ITWL to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of ITWL with personal knowledge of the representations provided in ITWL's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Denver District Office
215 S. Wadsworth Blvd., Suite 303
Lakewood, CO 80226

6. This Notice shall be sent to Industrial Tower and Wireless, LLC, at its address of record.

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'. " 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).